

1982 WL 189394 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 6, 1982

\*1 James B. Ellisor  
Executive Director  
State Election Commission  
Post Office Box 5987  
Columbia, South Carolina 29250

Dear Mr. Ellisor:

Mr. McLeod has referred your recent letter to me for reply. You have stated that the boards of registration have been requested to register persons on Sundays and at churches. You have inquired if this procedure would be authorized under the laws of South Carolina.

SOUTH CAROLINA CODE OF LAWS, 1976, Section 7-5-130, states that:

[t]he books of registration shall be open at each county courthouse, or at such other place as may be provided by the governing body of the county, during the same hours as other county offices are normally open. . . .

Section 7-5-140 provides that:

[b]oards of registration shall remain open as provided by law and in addition thereto, shall remain open and available for registration on any additional days, during such hours and at such various places throughout the county as the boards may determine. Notice of the time and place shall be given by prior publication in a newspaper of general circulation in the county.

I have not found an opinion or case specifically governing the question you have raised. However, it has been the prior opinion of this Office that registration should be conducted at a public place. It is important that the place where persons go to register be open and accessible to all persons who desire to register.

'Public' is defined in Websters' Third New International Dictionary as 'a place accessible . . . to all members of the community.' cf. [Devlin v. Osser](#), 254 A. 2d 303 (1969). In [Collum v. State](#), 35 S.E. 121, 109 Ga. 531 (1900), the court held that a church was not a public building and, therefore, a charge of destroying, injuring or defacing a public building could not be brought against a person who defaced a church.

This is, of course, a very narrow precedent on which to base an opinion and the law is not clear on this question, but it would not appear that a church would be what is generally considered to be a public building or public place for registration of voters.

Likewise the law is not clear on Sunday registration. An 1852 opinion of this State, [State v. Schierle](#), 5 Rich. 299, found registration on Sunday to be 'improper and very reprehensible.' However, the court held that since there was no statute expressly forbidding it the persons so registered would be deemed validly registered.

There is still no statute expressly forbidding Sunday registration. Therefore, although it would seem the best practice would be to not register on Sunday there is no direct prohibition of Sunday registration.

It is, therefore, the opinion of this Office that although there is no statute specifically prohibiting Sunday registration or registration in churches, it would be a better procedure since churches are not generally deemed public buildings and the one South Carolina case on point is against Sunday registration, to not register on Sunday or at churches. However, this opinion cannot be free from doubt as only a court of competent jurisdiction could definitively decide this issue.

Sincerely,

\*2 Treva G. Ashworth  
Senior Assistant Attorney General

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